

HEALTH AND SENIOR SERVICES

DIVISION OF SENIOR AFFAIRS

Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders

Income Guidelines; Required Professional Nurse Availability

Proposed Amendments: N.J.A.C. 8:92 – 3.2 and 3.3

Authorized By: Clifton R. Lacy, M.D., Commissioner

Department of Health and Senior Services

Authority: N.J.S.A. 26:2M-1 and 26:2M-9; Reorganization Plan 001-1996

Calendar Reference: See Summary below for explanation of rulemaking calendar exception.

Proposal Number: PRN 2003-256

Submit written comments by September 5, 2003 to:

Nancy Day, Director

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Division of Senior Affairs

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The agency proposal follows:

Summary

The Division of Senior Affairs adopted new rules for the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders effective April 16, 2001. At that time, the Division committed to reviewing the impact of the sliding fee scale included in the rules and the possibility of changing the allowable number of days

of service from three to five days a week. A committee was convened after seven months from the time of adoption. The meeting, attended by adult day services providers and caregivers, reviewed data on these issues. It was decided that the Division would revise and simplify the sliding fee scale/income guidelines. The revised sliding fee scale/income guidelines are based solely on SSI, making them understandable and predictable. The SSI income level is effective as of January 1 and the Alzheimer's Adult Day Services guidelines are effective as of July 1, giving agencies time to assess the effect yearly changes in income levels will have on their current client's levels of co-pay and on the agencies' revenues. Further, it was determined that it is not feasible to increase the allowable number of days of service from three to five days a week. The Division cannot guarantee that funding will be available in subsequent years to continue providing clients with five days of service per week.

The meeting also provided an opportunity to discuss the issues of nursing requirements in social programs. The Alzheimer's legislation contains language requiring participating programs to have "adequate and appropriate staffing to meet the nursing, psychosocial and recreational needs of the participants." N.J.A.C. 8:92-3.3(i) states, "A registered professional nurse shall monitor the health status of clients, participate in the development and quarterly review of the care plan, and dispense medications in accordance with established procedures. Nursing hours shall be scheduled in accordance with medication needs of clients." The Division feels that this last statement does not ensure that the nursing needs of the client are met in adult social day services programs, which do not have rules and thus do not have specific nursing requirements. As clients with dementia lose their ability to communicate, it becomes

more difficult to assess physical and medical needs and problems. Clients are unable to express discomfort and pain and are more vulnerable to medical emergencies. They require monitoring by someone trained to detect medical needs and problems through observations of physical changes and nonverbal clues and someone who can incorporate these needs into an appropriate care plan. To ensure there is sufficient nursing presence to be able to meet this requirement, it is necessary to impose a minimum amount of time per day per center. N.J.A.C. 8:92-3.3(i) will be revised to incorporate a minimum of two hours a day nursing for each day the center is open.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The proposed amendments have a beneficial impact upon individuals who may become eligible for service due to the change in the income guidelines. Further, for clients with dementia, enhanced nursing services will ensure adequate monitoring and interventions for medical conditions.

#### Economic Impact

An increase in income eligibility has the potential to decrease an agencies' co-pay revenues from lower income clients at the same time it increases the number of eligible clients at the upper end of the range. With the change in the sliding fee scale/income guidelines, potential clients will find day services more affordable, which should increase participation and lower the cost per unit for the agencies.

Regarding the proposed nursing requirement, some social adult programs will incur additional costs in order to meet the minimum of two hours per day nursing for the days the center is open.

#### Federal Standards Statement

The program is fully State-funded. The program operates under the aegis of the Department of Health and Senior Services, through the Division of Senior Affairs. Staff of the Office of Community Programs oversee the contract administration and provide on-site monitoring and monthly financial report reviews.

A Federal standards analysis is not applicable to the proposed amendments because the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders is strictly State-funded and administered by a State agency, under State statutes. There are no Federal standards applicable to the subject matter of these rules; therefore, a Federal standards analysis is not required.

#### Jobs Impact

An increase in jobs, relating to the increase in required nursing hours, may be generated as a result of these proposed amendments.

#### Agriculture Industry Impact

The proposed amendments shall have no agriculture industry impact.

### Regulatory Flexibility Analysis

For the proposed amendments on income guidelines, the information that agencies and caregivers are required to report will not change. The proposed amendments simplify the previous sliding fee scale/income guidelines for provider agencies, many of which may be considered small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules however, apply equally to all providers participating in the program. For the proposed amendments to the rules at N.J.A.C. 8:92-3.2(b) and (c), the information that agencies are required to collect on the Financial Profile form will not change. No additional compliance requirements are imposed; therefore, the Department does not anticipate that provider agencies will have to employ additional professional services in order to comply with these amendments. Providers will still be required to report client income and maintain records necessary for submitting vouchers for reimbursement for services rendered.

See Economic Impact above for costs associated to nursing.

As the proposed amendments are being imposed on provider agencies in order to ensure the health and safety of clients in the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders, no lesser requirements or exemptions can be provided small businesses.

### Smart Growth Impact

The proposed amendments will have no impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### 8:92-3.2 Funding requirements

(a) (No change.)

(b) For clients whose income falls **at or** below [300] **269** percent of SSI, the Department shall pay 75 percent of the agency's allowable costs. The agency shall obtain up to the remaining 25 percent of the agency's allowable costs (not reimbursed by the Department) from other sources such as donations, foundation funds, or from the client's families or funds in accordance with the sliding fee scale developed in accordance with the table in (c) below. The amount of the center's per diem cost reimbursed by clients and/or families shall not exceed 25 percent of the per diem rate established by the Department for these clients.

(c) For clients whose income falls [between 300] **above 269 percent and up to and including 600** percent of SSI [and 80 percent of the maximum moderate income limit for the highest income region published by the council on Affordable Housing (COAH),] effective July 1 of each year, [incorporated herein by reference,] the Department will subsidize between [20 and 60] **75 and 20** percent of the agency's allowable costs in accordance with the sliding fee scale developed in accordance with the table below. The percentage of the agreed upon rate not paid by DHSS will be the responsibility of the client. The following table reflects the formulas used to calculate income levels for each rate of reimbursement:

[Income Guidelines]				
Percent of COAH for Highest Single Person's Income	Formula for Highest Couple's Income	Percent Paid by DHSS	Percent Paid by Client	Agency Responsibility
80%	80% COAH* + F**	20%	80%	0%
70%	2x300% SSI for Single	30%	70%	0%
60%	60% COAH + F	45%	55%	0%
50%	50% COAH + F	60%	40%	0%
% of SSI for Highest Single Person's Income				
300%	300% SSI + F	75%	25%	0%
269%	269% SSI + F	75%	20%	5%
238%	238% SSI + F	75%	15%	10%
207%	207% SSI + F	75%	10%	15%
175%	175% + F	75%	5%	20%
Below 175%	174 + F	75%	0%	25%

Where:

\*COAH is the single person income limit.

\*\*F is the factor used to calculate Highest Couple's Income limit. F = (2x300% SSI) - 70% COAH.]

Highest Yearly Income		Percent Paid	Percent Paid	Percent Paid
<u>Single</u>	<u>Couple</u>	<u>by DHSS</u>	<u>by Client</u>	<u>by Agency</u>
600% SSI	Single + 100% SSI	20%	80%	0%
525% SSI	Single + 100% SSI	30%	70%	0%
450% SSI	Single + 100% SSI	45%	55%	0%
375% SSI	Single + 100% SSI	60%	40%	0%
300% SSI	Single + 100% SSI	75%	25%	0%
269% SSI	Single + 100% SSI	75%	20%	5%
238% SSI	Single + 100% SSI	75%	15%	10%
207% SSI	Single + 100% SSI	75%	10%	15%
175% SSI	Single + 100% SSI	75%	5%	20%
150% SSI	Single + 100% SSI	75%	0%	25%

(d) – (f) (No change.)

8:92-3.3 Responsibilities of participating agencies

(a) – (h) (No change.)

(i) A registered professional nurse shall **be available two hours a day for the days the center is open to** monitor the health status of clients, participate in the development and quarterly review of the care plan, and dispense medications in accordance with established procedures. [Nursing hours shall be scheduled in accordance with medication needs of clients.]

(j) – (m) (No change.)